

Amendment No. 1 to SB1880

Johnson
Signature of Sponsor

AMEND Senate Bill No. 1880*

House Bill No. 2038

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 50-6-123, is amended by deleting the section and substituting instead the following:

(a) All case managers, including case manager assistants, coordinating the medical care services provided to employees claiming benefits or handling claims of employees claimed under this chapter shall be certified by the bureau pursuant to this section.

(b) The administrator shall establish, pursuant to the administrator's rulemaking authority, a system of case management for coordinating the medical care services provided to employees claiming benefits under this chapter; provided, however, it is within the discretion of the administrator to provide or deny case management services to any employee who has suffered a workers' compensation injury. Pursuant to the administrator's rulemaking authority, the administrator may establish:

(1) Minimum standards for the professional practice of case managers and case manager assistants; and

(2) A procedure for case managers and case manager assistants to obtain certification if required pursuant to this section.

(c) Any case manager, case manager assistant, or person or entity that employs a case manager who fails to comply with this section, or rules promulgated pursuant to this section, may be subject, after notice of a violation has been provided, to a penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)

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per violation, at the discretion of the administrator. In addition to any penalty assessed pursuant to this subsection (c), the administrator may also suspend the person's certification as a case manager or case manager assistant if, in the discretion of the administrator, the person has an established pattern of violations of this section.

(d) The bureau shall notify any person who has violated this section of such violation and may assess a penalty, suspend the person's certification, or both. The person shall have fifteen (15) calendar days from the date notice was sent to appeal the decision pursuant to the procedures provided for under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, or to pay the assessed penalty.

(e) Nothing in this section shall prevent an employer from establishing its own program of case management that meets the guidelines promulgated by the administrator in rules.

(f) Medical care, treatment, therapy, or services provided at the employee's residence pursuant to this chapter shall not be considered home health services as defined in § 68-11-201 when provided pursuant to direction of the employee's attending physician in the following specific circumstances only:

(1) By a licensed healthcare provider who routinely provides services to employees at the place of employment, if the services rendered by the provider at the employee's residence are of the same type rendered by the provider at the place of employment; or

(2) By a licensed physical therapist, occupational therapist, or speech therapist practicing independently of a home health agency, when the

employee's attending physician determines that it is in the best interest of the employee to be treated by the independent therapist because of the therapist's expertise in workplace injuries.

SECTION 2. Tennessee Code Annotated, Section 50-6-419, is amended by deleting the language "insurance carriers and self-insured employers" at the end of the first sentence of subsection (a) and substituting instead the language "insurance carriers, self-insured employers, and any entity acting on behalf of an insurance carrier or self-insured employer in the resolution of claims brought pursuant to this title".

SECTION 3. Tennessee Code Annotated, Section 50-6-419(c), is amended by deleting the subsection and substituting instead the following:

(c)

(1) The administrator may enforce the standards described in this section, and any rules promulgated pursuant to this section, through assessment of civil penalties pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, against any entity employing individuals who adjust workers' compensation claims under this title. Such penalties may be in an amount not less than fifty dollars (\$50.00) nor more than five thousand dollars (\$5,000) per violation. Each separate act shall constitute a separate violation and may subject the entity to assessment of additional civil penalties.

(2) The administrator may also notify:

(A) The department of commerce and insurance of any penalties assessed by the bureau pursuant to this section; and

(B) The principal corporate office of any insurer of any violations of the standards or rules described in this section.

SECTION 4. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2017, and shall apply to actions committed on or after that date.